

EXHIBIT NO. 1

4
12-14-02

Docket Item # 3
SPECIAL USE PERMIT #2002-0098

Planning Commission Meeting
December 3, 2002

ISSUE: Consideration of a special use permit review to allow a variety of uses and a reduction of required off-street parking, and a change of ownership.

APPLICANT: Unity, LLP
by M. Catharine Puskar, attorney

LOCATION: 5400--5432 Eisenhower Avenue

ZONE: OCH/Office Commercial High

PLANNING COMMISSION ACTION, DECEMBER 3, 2002: On a motion by Mr. Komoroske, seconded by Mr. Leibach, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations and to amend condition #7. The motion carried on a vote of 6 to 0. Mr. Dunn was absent.

Reason: The Planning Commission agreed with the staff analysis.



STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or any business entity in which the applicant has a controlling interest. (P&Z) (SUP#97-0107)
2. The following uses are permitted on the subject property: (P&Z) (SUP#97-0107)
 - warehouse and storage
 - laundry/cleaning operation
 - printing and publishing facilities
 - research and testing
 - repair services, not automotive
 - catering operation
 - wholesale business
 - building materials, storage and sales
 - light assembly, service and crafts
3. This approval is valid as long as the existing building remains unchanged. A "change" of the existing building sufficient to invalidate this approval is one that requires a site plan under section 11-403 of the zoning ordinance. (P&Z) (SUP#97-0107)
4. No odors shall be detectable at the property line. (Health) (SUP#97-0107)
5. **CONDITION AMENDED BY STAFF:** All waste products including, but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers, or be discharged onto the ground. (T&ES) ~~No waste products, including but not limited to solvents, shall be discharged into the sanitary or storm sewers. (Health) (SUP#97-0107)~~
6. **CONDITION RETAINED BY STAFF:** A parking reduction is granted for a total of 50 spaces. (P&Z)

7. **CONDITION AMENDED BY PLANNING COMMISSION:** This special use permit shall be reviewed five years from the date of approval by City Council ~~or in~~ September 2002. (P&Z)
8. **CONDITION ADDED BY STAFF:** Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
9. **CONDITION ADDED BY STAFF:** The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES)
10. **CONDITION ADDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
11. **CONDITION ADDED BY STAFF:** The applicant shall comply with the City of Alexandria Best Management Practices Manual for Automotive Related Industries. A copy can be obtained by contacting the Division of Environmental Quality on 703/519-3400, extension 166. (T&ES)
12. **CONDITION ADDED BY STAFF:** No paint or coatings shall be applied outside of a paint spray booth and no material shall be disposed of by venting into the atmosphere. (T&ES)

DISCUSSION:

1. The applicant, Unity, LLC, is before the Planning Commission for a review of the existing umbrella special use permit for a variety of uses and a parking reduction, and for a change of ownership.
2. The subject property is one lot of record with 375.8 feet of frontage along Eisenhower Avenue, a depth ranging from 363.6 to 512.5 feet and a lot area of 3.8 acres. The site is developed with a two-story industrial building and a parking lot with 159 parking spaces and is known as the Van Dorn Metro Business Center. The building has a total of 76,200 square feet subdivided into fourteen warehouse units and 6,000 square feet of office space. It is occupied by a variety of light industrial and automobile repair uses. The property abuts the Metro line and RF&P Railroad line directly to the south. Across Eisenhower Avenue is the City's waste-to-energy facility. To the east of the property is an industrial/office building. Ingress and egress from the subject property is available only from Eisenhower Avenue.
3. On October 7, 1997, City Council granted SUP#97-0107, an umbrella special use permit to allow a variety of uses without separate special use permit approval, with a reduction of 50 parking spaces overall. Neither the applicant nor tenants are required to apply for a special use permit each time an individual tenant space is filled with a new use from the following list:
 - Warehouse and storage
 - Laundry/cleaning operation
 - Printing and publishing facilities
 - Research and testing
 - Repair services, not automotive
 - Catering operation
 - Wholesale business
 - Building materials, storage and sales
 - Light assembly, service and crafts
4. This case is before the Commission and Council because Condition #7 of the special use permit requires a review to ensure that parking needs have not significantly increased since its approval. In addition, the ownership of the property has changed since the SUP was approved, and the applicant has requested a change of ownership.

5. The tenants of the building have not significantly changed since the SUP was approved in 1997. Only three new tenants have occupied the building and include office/warehouse, wholesale, and printing businesses, none of which required new SUP approval (see attached list of tenants). Two businesses have left property since 1997.
6. Pursuant to section 8-200 (A)(20) of the zoning ordinance, the building is required to provide a total of 194 spaces, calculated as follows:

Use	Floor Area	Parking Category	Spaces Required
Auto repair	21,000	repair	53
Office	6,000	office	10
Warehouse (short-term)	4,027	industrial	12
Long-term storage	10,650	industrial, long-term storage	5
Retail	12,600	retail	58
Building Materials/ Wholesale	8,100	industrial	18
Printing	4,200	industrial	12
Vacant	<u>9,450</u>	industrial	<u>26</u>
	76,027		194

The lot contains 159 parking spaces as well as 16 loading areas, only four of which are required. When not in use, the unrequired loading bays could be considered parking spaces. Based on the current uses occupying the property, the technical parking requirement has decreased by nine spaces since the SUP was approved in 1997. The overall reduction is currently for 35 spaces. Staff has not received any complaints in regard to parking, and observed several open spaces in the middle of the day when visiting the site.

7. Uses allowed under the umbrella special use permit are derived from three mechanisms: noncomplying uses that have existed since prior to June, 1992, I/Industrial zone uses (to which prior cases could change), and OCH/Office Commercial High special uses. In addition, the SUP restricts the following uses be reviewed on a case by case basis by SUP approval: auto repair, motor vehicle parking and storage, convenience store, social service use, and manufacturing uses.
8. On November 11, 2002 the staff visited the subject property and found it to be in compliance with the SUP.

9. Zoning: The subject property is located in the OCH/Office Commercial High zone.
10. Master Plan: The proposed uses are not consistent with the Landmark/Van Dorn Small Area Plan which designates the area OCH/Office Commercial High. They may be appropriate as interim uses, however, until the site is ultimately redeveloped.

STAFF ANALYSIS:

Staff has no objection to the continued use of the umbrella special use permit for this flex warehouse space and for a parking reduction, and to the request for a change of ownership at 5400 Eisenhower Avenue. Staff supports the use of the umbrella SUP in cases such as this one because it allows the owner of an industrial/warehouse building maximum flexibility in leasing its space prior to the eventual redevelopment anticipated by the OCH zoning. As part of the planning for Eisenhower Valley, the property has been identified as a potential redevelopment site and is particularly attractive because of its proximity to the Metro Station. Staff is not aware of any plans to redevelop the property at this time.

In regard to parking, only three new businesses have occupied the property since the SUP was approved in 1997, and two businesses have left, resulting in an overall decrease in the technical parking requirement of the property. The few new businesses include warehouse and industrial type uses with parking demands anticipated under the umbrella special use permit. Further, staff has received no complaints about parking and observed a number of open parking spaces when visiting the site in the middle of the day.

Therefore, staff maintains the recommendation of a parking reduction of 50 spaces for a variety of uses. In addition, staff retains the five-year review condition, both to consider any changes in parking demands, and to reconsider the redevelopment potential of the property.

With these conditions, staff recommends approval of the special use permit.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-2 The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services.
- R-3 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.
- R-4 All waste products including, but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers, or be discharged onto the ground.
- R-5 The applicant shall comply with the City of Alexandria Best Management Practices Manual for Automotive Related Industries. A copy can be obtained by contacting the Division of Environmental Quality on 703/519-3400, extension 166.
- R-6 No paint or coatings shall be applied outside of a paint spray booth and no material shall be disposed of by venting into the atmosphere.

Code Enforcement:

- C-1 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

- C-3 Construction permits are required for this project for renovations and additions to the existing structure. Plans shall accompany any permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-4 A Certificate of occupancy shall be obtained prior to any occupancy of the building or portion thereof when a change in use occurs, in accordance with USBC 118.0.
- C-5 Future tenants must obtain a certificate of occupancy prior to occupancy of each space, if there is not a certificate of occupancy on record or changing use group and/or changing use within the same use group.
- C-6 Fire protection analysis is required when changing use to determine the adequacy of existing fire protection systems for the proposed use.
- C-7 A fire prevention code permit may be required for any future proposed operation.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Five sets of plans are to be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-3 Permits must be obtained prior to operation.
- C-4 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-5 Certified Food Managers must be on duty during all hours of operation.
- C-6 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- F-1 Concur

APPLICATION for SPECIAL USE PERMIT # 2002-0098

[X] Change of Ownership or [] Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 5400-5432 Eisenhower Avenue

TAX MAP REFERENCE: 77.00-01-03 ZONE: OCH

APPLICANT Name: Unity, LLC

Address: c/o Sherman Vining 17495 Jefferson Davis Highway, Dumfries, VA 22026

PROPERTY OWNER Name: Unity, LLC

Address: c/o Sherman Vining 17495 Jefferson Davis Highway, Dumfries, VA 22026

SITE USE: Umbrella Special Use Permit to allow a variety of uses and a reduction in required parking.

☒ THE UNDERSIGNED hereby applies for a Special Use Permit for **Change in Ownership**, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances.

[] THE UNDERSIGNED hereby applies for a Special Use Permit for **Minor Amendment**, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

M. Catharine Puskas

Print Name of Applicant or Agent
Walsh, Colucci, Stackhouse, Emrich & Lubeley
2200 Clarendon Blvd., 13th Floor

Mailing/Street Address

Arlington, VA 22201

City and State Zip Code

M. Catharine Puskas

Signature

(703) 528-4700 (703) 525-3197

Telephone #

Fax #

November 8, 2002

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____
Legal Advertisement: _____

Date & Fee Paid: _____ \$ _____

ADMINISTRATIVE ACTION: _____

Date

Director, Planning & Zoning

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # 97-0107

Date approved: 10 / 25 / 1997
month day year

Name of applicant on most recent special use permit Phillips Industrial Associates

Use Variety of uses permitted under umbrella Special Use Permit

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

See SUP 97-0107 and attached tenant list

3. Describe any proposed changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes in the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, any noise emitted by the use, etc. (Attach additional sheets if necessary)

See SUP 97-0107 and attached tenant list

4. Is the use currently open for business? ☒ Yes ☐ No

If the use is closed, provide the date closed. / /
month day year

5. Describe any proposed changes to the conditions of the special use permit:

No changes proposed

6. Are the hours of operation proposed to change? ☐ Yes ☒ No
If yes, list the current hours and proposed hours:

Current Hours:

Proposed Hours:

Varies by tenant

7. Will the number of employees remain the same? ☐ Yes ☐ No
If no, list the current number of employees and the proposed number.

Current Number of Employees:

Proposed Number of Employees:

Varies by tenant

8. Will there be any renovations or new equipment for the business? ☐ Yes ☐ No
If yes, describe the type of renovations and/or list any new equipment proposed.

None anticipated at this time, but varies by tenant.

9. Are you proposing any change in the sales or service of alcoholic beverages? ☐ Yes ☒ No
If yes, describe proposed changes:

At this time none of the tenants sell alcohol.

10. Is off-street parking provided for your employees? ☒ Yes ☐ No
If yes, how many spaces, and where are they located?

No change

11. Is off-street parking provided for your customers? ☒ Yes ☐ No
If yes, how many spaces, and where are they located?

No change

12. Is there a proposed increase in the number of seats or patrons served? ☐ Yes ☐ No
If yes, describe the current number of seats or patrons served and the proposed number of seats and patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables, etc.)

Current:

N/A

Proposed:

13. Are physical changes to the structure or interior space requested? ☐ Yes ☒ No
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor area devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? ☐ Yes ☒ No
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

Proposed:

15. The applicant is the (check one) ☒ Property owner ☐ Lessee

other, please describe:

16. The applicant is the (check one) ☐ Current business owner ☐ Prospective business owner

☒ other, please describe: Property Owner/Landlord

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

UNITY, LLC

Mr. Kianosh Sadeghian
7500 Box Elder Court
McLean, VA 22102

Mr. Janice Sadeghian
7500 Box Elder Court
McLean, VA 22102

SKJ Incorporated
7500 Box Elder Court
McLean, VA 22102

VAN DORN METRO BUSINESS PARK
Rent Roll

Unit Number	Tenant Name	Leased Square Footage	Use Type	Lease Commence Date
5400B	The Maids/JEB Reynolds	1,500	Office	10/15/92
*5400C	Permanent Solutions, Inc.	4,500	Office	4/1/01
*5402	Permanent Solutions, Inc.	4,027	Warehouse	5/1/01
5404	Don Allen Service Center	8,400	Auto Sales/Service	2/15/76
5408	Vacant	4,200		
5410A	Blaine Window Repair	3,150	Wholesale/Retail	1/1/88
5410B	Vacant	1,050		
5412	Vacant	4,200		
5414	MAACO	8,400	Auto Paint	3/1/76
5416	International Finance	6,450	Office mockup/storage	1/1/96
5418	Panamovers	4,200	Warehouse	4/10/92
5420	Nationwide Furniture	12,600	Retail	6/1/86
5426	Performance Discount Tire	4,200	Auto Repair/Service	11/1/75
*5428	L. Fishman & Sons Sublease Omega Finishing	4,200	Sublease/Printing	7/1/97
*5430	Mirror and Glass Center	4,950	Wholesale/Retail	12/1/97

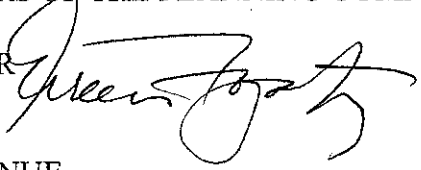
*New Tenant since approval of SUP 97-0107

City of Alexandria, Virginia

MEMORANDUM

DATE: DECEMBER 3, 2002

TO: CHAIRPERSON AND MEMBERS OF THE PLANNING COMMISSION

FROM: EILEEN FOGARTY, DIRECTOR
PLANNING AND ZONING 

SUBJECT: 5400-5432 EISENHOWER AVENUE
SUP#2002-0098

Please note the following editorial corrections for the above case:

1. The applicant, identified as *Phillips Industrial* on the cover of the report, should be amended to reflect the current applicant, *Unity, LLP*. In addition, discussion item #1 on page 5 should reflect the current applicant *Unity, LLP*.
2. The language in condition #7 is what was approved in 1997, and must be updated as follows, "This special use permit shall be reviewed five years from the date of approval by City Council ~~or in September 2002.~~"

There are no other changes to the report. The editorial corrections do not change staff's analysis or recommendation.

APPLICATION for SPECIAL USE PERMIT # 2002-0098

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M. Catharine Puskas

Print Name of Applicant or Agent
Walsh, Colucci, Stackhouse, Emrich & Lubeley
2200 Clarendon Blvd., 13th Floor

Mailing/Street Address

Arlington, VA 22201

City and State Zip Code

M Catharine Puskas

Signature

(703) 528-4700 (703) 525-3197

Telephone #

Fax #

November 8, 2002

Date

===== DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY =====

Application Received: _____ Date & Fee Paid: _____ \$ _____
Legal Advertisement: _____

PLANNING COMMISSION
ADMINISTRATIVE ACTION: 12/3/2002 RECOMMEND APPROVAL 6-0

CITY COUNCIL ACTION: 12/14/02PH--CC approved the Planning Commission recommendation.